IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 1871 OF 2006

India United Mills No.3 & 4 a Unit of
National Textile Corporation(MN) Ltd. ... Petitioners.

V/s.

Tulsiram Sitaram Parkar & Another. ...Respondents.

Ms. Vasanti Kunder with V.M. Parkar for the Petitioners

Mr. I.A. Engineer for the Respondent No.1.

.....

CORAM : DR. D.Y. CHANDRACHUD,J.

25TH SEPTEMBER, 2006.

P.C. :

1. The Respondent Workman was granted the benefit of permanency with effect from 1st January 1996 by an order dated 10th January 2000 passed by the Labour Court which was confirmed by the Industrial Court on 17th July 2001. The Petition filed by the Management (Writ Petition No.2920 of 2001) to assail those orders was dismissed by a learned Single Judge on 14th January 2002. The order of the learned Single Judge has attained finality.

2. The Respondent Workman was sought to be retired at the age of 60 years by a retirement memo dated 12th June 1997. In a complaint of unfair labour practices (Complaint (ULP) No.538/1997), the Industrial Court by an order dated 26th February 2002 held that the Respondent Workman was entitled to the benefit of Standing Order 20-A

and consequently that he was entitled to continue in service until he attained the age of 63 years. The Petition filed by the Management (Writ Petition (Lodg.) No.2781/2002) has been dismissed by an order passed today.

3. The Workman moved an application under Section 33-C(2) of the Industrial Dispute Act, 1947 since the order of the Industrial Court dated 26th February 2002 was not complied with. By the order impugned in this proceeding, the Labour Court has allowed the application holding that the Workman was entitled to arrears of salary of 36 months until he attained the age of 63 years (amounting to Rs.1,62,000/-), bonus in the amount of Rs.17,000/- and an amount in respect of unavailed privilege leave amounting to Rs.13,500/-. An amount of Rs.1,87,000/- has been found to be due to the workman.

4. The answers elicited in the cross-examination of the Management's witness, Shri Gurunath Pandurang Kamat will demonstrate that all the contentions of the workman were admitted in material respects. The workman produced the payment slips of his co-workman in the Cimco Winding Department who were junior to him. The salary slips were not disputed. The witness admitted that bonus for the years 1997 to 2000 was declared for the workmen of the aforesaid Department. The witness admitted that the workman here was entitled to bonus.

5. In the circumstances, the order passed by the Court below in the application under Section 33-C(2) does not warrant interference. The Petition is dismissed.

6. The amount deposited in pursuance of the interim order dated 24th July 2006 is permitted to be withdrawn by the Respondent - Workman.